

## UNITED STATES OF AMERICA

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## DEPARTMENT OF ENERGY

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## NATIONAL RENEWABLE ENERGY LABORATORY

## NOTICE OF PROPOSED RULEMAKING HEARING:

ALTERNATIVE FUEL TRANSPORTATION PROGRAM: PRIVATE AND  
LOCAL GOVERNMENT FLEET DETERMINATION

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Wednesday, May 7, 2003

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The hearing came to order at 9:30 a.m. in Room 1E-245 of 1000 Independence Avenue, NW Washington, DC. Dana O'Hara, Technical Manager, U.S. Department of Energy, presiding.

## Present:

Dana O'Hara	Technical Manager, U.S. Department of Energy
Vivian S. Lewis, Esq.	Attorney Advisor, U.S. Department of Energy

## Witnesses Present:

Nic van Vuuren	Hampton Roads Clean Cities Coalition
Paul Smith	Energy and Environmental Counsel, American Automotive Leasing Association
David Robertson	President and Assistant Director of Fleet Management, Fire Department, City of Houston
David Lefever	Executive Director, National Association of Fleet Administrators

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P-R-O-C-E-E-D-I-N-G-S

9:46 a.m.

MR. O'HARA: Good morning, everybody.

Can you hear me all right?

I'm Dana O'Hara, the Technical Program Manager for the private and local rule.

Today we're having a hearing to discuss the notice of proposed rule -- let's see if we can get the long distance going here.

As I said, we're here to discuss the private and local notice of proposed rulemaking for the private local government fleet mandate determination.

Before I get started, we'll talk a little bit about logistics. There's coffee down below us, there's a little store down below us if you're thirsty and everything else.

The rest rooms are on either end of the hall on this side. And also drinking fountains on either side of the hall by the rest rooms.

And with that, let's get on with the purpose of the hearing.

Okay. We've released the notice of proposed rulemaking on the 4th of March concerning the private and local government fleet

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1 determinations. We're looking for statements today  
2 on your comments on our notice of proposed rule. We  
3 will consider all comments. We will respond to them  
4 in the final rule. And the purpose of this thing is  
5 to help us determine what the final rule is supposed  
6 to be like.

7 I want to set some ground rules.  
8 Speakers should identify themselves, who they're  
9 representing, somewhat of why you are the best  
10 person to represent that group, some background,  
11 what your interest.

12 Statements are not supposed to be any  
13 longer than 10 minutes.

14 It was requested that people provide 10  
15 copies of their statement.

16 Everybody's allowed a rebuttal after  
17 everybody's given their statement in the order that  
18 they gave the statements.

19 Next slide. Okay.

20 To give you a brief summary of NOPR  
21 says. NOPR has proposed that the private and local  
22 government fleets not be required to acquire  
23 alternative fuel vehicles. This decision to whether  
24 to require such a requirement is based, in part, on  
25 the preliminary findings that: (a) such a rule will

1 not bring about achievement of the petroleum  
2 replacement fuel goals contained in EPCa, i.e.,  
3 it's without a fuel use requirement in the rule. We  
4 won't get any real benefit towards the replacement  
5 fuel goal of 30 percent with such a rule.

6 Because of these reasons that we find  
7 that -- well, let me start over again.

8 (a) Such a rule will not bring about  
9 achievement of the petroleum replacement fuel goals  
10 contained in EPCa and such a rule would not  
11 appreciate or increase the percentage of  
12 transportation motor fuel that is alternative fuel,  
13 and because of adoption of the fleet mandate would  
14 not bring about achievement of petroleum replacement  
15 goals, would not appreciably increase the percentage  
16 of alternative fuel use EPCa precludes DOE from  
17 adopting such a mandate.

18 That's sort of the fundamental thing, is  
19 the rule necessary. We were not given the option.  
20 This is a condition thing on whether or not adopt  
21 the rule, and that's what the whole idea beside the  
22 proceeding is, that the notice of proposed  
23 rulemaking says that if the rule is not necessary,  
24 therefore we can't do it.

25 Next slide.

1           The docket information is available  
2           here. NOPR's there. There is a small amendment that  
3           essentially defined the time for the meeting here.

4           We also have an information voicemail  
5           box that you can ask questions and we will get back  
6           to you in a timely manner, usually within 24 hours.  
7           Or we have a place you can email.

8           IF you want to submit written comments,  
9           the deadline is June 2nd, another 3 or 4 weeks. You  
10          can submit via email or you can submit mail. We're  
11          asking for 8 copies.

12          And that's all the comments I'd like to  
13          make.

14          The panel today will be myself. And, as  
15          I said, my name is Dana O'Hara. With me will be  
16          Vivian Lewis, general counsel.

17          And with that, I'd like to get started  
18          with the statement.

19          Nic, you want to start?

20          MR. van VUUREN: Good morning.

21          My name is Nic van Vuuren. I am the  
22          coordinator for the Hampton Roads Clean Cities  
23          Coalition in Southeast Virginia. As a participant  
24          in the nation's only alternative fuels  
25          implementation program, I hope to bring a

1 perspective on how this proposed rule will be  
2 effecting our program. The only voluntary program I  
3 should have maybe indicated.

4 The Department of Energy has proposed  
5 not extending the Energy Policy Act fleet  
6 requirements to local government and large private  
7 fleets. I am the Clean Cities Coordinator for  
8 Hampton Roads, Virginia and I would like to make the  
9 case that this is a step backward in the nation's  
10 campaign to reduce our dependence on foreign oil. I  
11 believe it also runs counter to the intent of the  
12 legislators in 1992 and would do harm to our efforts  
13 to promote American fuels and transportation.

14 I believe that the P&L rule is indeed  
15 necessary to achieving the goals of EPCRA and an  
16 important tool to achieving national energy  
17 security. Unfortunately, the DOE analysis I believe  
18 makes two significant errors and perhaps  
19 misinterprets the intent of the law.

20 The first error is that it makes an  
21 over-simplified calculus of the potential effect of  
22 the rule. The P&L fleets were selected as a third  
23 tier of leadership fleets that were going to serve  
24 by example, along with a much smaller federal and  
25 state fleets and fuel provider fleets. These fleets

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1 were not selected for their fuel use potential, but  
2 principally to serve as a foundation for voluntary  
3 efforts such as the Clean Cities Program, and were a  
4 nucleus around which more expansive efforts to  
5 introduce alternative fuels would be built. The  
6 analysis ignores the catalyst role that is to be  
7 played by these fleets.

8 The second major error in the analysis  
9 is to assume that by not promulgating the rule, we  
10 will remain at status quo in our march to petroleum  
11 independence. In fact, the rule will send a very,  
12 very clear signal to very visible fleets that as a  
13 nation we do not prioritize the importance of  
14 reducing our dependence on petroleum, and that local  
15 efforts are not necessary or important.

16 As Clean Cities Coordinator I have  
17 already seen this nefarious effect manifest itself  
18 in several of our communities. Cities that took a  
19 very proactive role in anticipation of the rule have  
20 started to completely abandon their alternative  
21 fuels efforts. I'll relate more why in more detail a  
22 little bit later.

23 The question at hand about necessity of  
24 a P&L rule is, in my opinion, is promulgation of  
25 such a rule necessary to help us move toward our



1 energy security goals or not? It can be  
2 demonstrated that lack of P&L rule is not neutral  
3 and will actually harm this effort, counter to  
4 congressional intent. Therefore, the current  
5 proposed rule deserves to be seriously revised.

6 I'll further some specific arguments  
7 that were made in the documentation here.

8 The proposed rule states that DOE  
9 believes that implementation of a P&L rule would not  
10 appreciably contribute to the achievement of EPCAct's  
11 existing 2010 replacement goal of 30 percent or of a  
12 revised replacement fuel goal were one to be  
13 adopted. The crux of this argument is that the DOE  
14 has concluded that the number of AFV acquisitions is  
15 too small to cause an appreciable increase in  
16 replacement fuel use. However, DOE points only to  
17 the number of vehicles covered by the rule. And as I  
18 have pointed out, completely ignores the catalytic  
19 effect of the rule and the supportive effect of the  
20 rule on voluntary efforts like clean cities.

21 For the first time, large numbers of  
22 large fleets that operate in a contained geographic  
23 area would be covered, thus voiding the arguments of  
24 portability that are often forwarded by federal and  
25 state fleets. For example, Virginia will not acquire

1 dedicated CNG vehicles because fleet users are  
2 required to travel from Richmond to all corners of  
3 the state where infrastructure is not available. The  
4 city of Norfolk, on the other hand, operates the  
5 large majority of its vehicles in a contained  
6 geographic area of about 25 square miles, ideal for  
7 implementation of CNG. In this case it is not  
8 possible to extrapolate the poor state experience to  
9 the local government case.

10 A good deal of the proposed rule  
11 complains, and rightfully so, about the constraints  
12 of EPOA that render it less than 100 percent  
13 effective. For example, EPOA does not give DOE  
14 authority to require alternative fuel use. However,  
15 EPOA fleet acquisitions create an opportunity for  
16 independent voluntary efforts to convince  
17 policymakers to enact their own fuel use  
18 regulations, usually modeled on Presidential  
19 Executive Order 13149, such as Maryland's Green  
20 Government Executive Order. It is clear that  
21 neither of these initiatives would have been  
22 possible without the EPOA mandates.

23 By not promulgating the P&L rule, DOE  
24 takes away a valuable tool for Clean Cities to  
25 persuade localities voluntarily to respect the

1 spirit of the law.

2 DOE mentions that market forces would  
3 prevent appreciable increases in replacement fuel  
4 use even if P&L were implemented. Market forces tend  
5 to always work against initiatives such as EAct or  
6 Clean Air regulations. It is precisely because of  
7 market forces that well designed regulatory  
8 intervention is required.

9 Now, there is a case to be made that  
10 EAct is not very well designed. It is not ideal to  
11 target specific fleets where the cost is burden is  
12 more focused and not spread out thinly and evenly as  
13 it was in the case of the automotive emissions  
14 requirements. The energy security analogy to the  
15 automotive emissions program is corporate averaged  
16 fuel economy. But the political reality is that CAFE  
17 is mired in a morass.

18 There was much comment about incentives.  
19 Incentives are great, but cannot exist alone. And  
20 current incentive programs like Clean Cities are  
21 finding their budgets actually slashed, not growing.  
22 In other words, imperfect EAct is all we have at  
23 this point.

24 DOE also refuses to take this  
25 opportunity to revise the 30 percent 20/10 goal. As

1 early as 1996 it was clear that the 30 percent goal  
2 was neither practicable nor achievable with the  
3 current state of affairs effecting the  
4 transportation fuels market. Absent mechanism that  
5 reflect a true cost of petroleum at the retail  
6 level, regular market forces will not permit  
7 significant penetration of alternative fuels  
8 technologies.

9 DOE has full authority to revise the  
10 petroleum displacement goal in view of these  
11 realities to reflect something achievable. But then  
12 some commenters pointed out that the arbitrary  
13 nature of setting numeric goals, and they are not  
14 really incorrect.

15 What we find is that the goal being  
16 expressed by the 1992 legislators is to move away  
17 from the petroleum use status quo and increase  
18 replacement fuel's use as much as possible. This is  
19 the goal of EPAct. The question then is reiterated  
20 does the P&L decision contribute to the achievement  
21 of this goal or does it detract from it. Once again,  
22 not promulgating the P&L rule will result in a  
23 backward step and take away the small but  
24 progressively forward movement towards petroleum  
25 displacement. This is clearly contrary to the spirit

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1 of EAct.

2 In other words, I feel the P&L rule is  
3 indeed necessary to achieving the goal of EAct.

4 DOE cites commenters who oppose P&L  
5 suggested it would foster noncompliance and limit  
6 participation in voluntary programs. The situation  
7 in Hampton Roads is the diametric opposite of this  
8 statement. In fact, it has been the anticipation of  
9 P&L that has enabled a number of individuals in our  
10 local governments to be proactive with alternative  
11 fuels use. As it became clear that P&L was being  
12 back-burnered and then abandoned, many of these  
13 individuals lost their key argument for doing the  
14 right thing. So instead of moving forward with more  
15 ambitious AFV programs, we find municipalities  
16 participating less and less in voluntary efforts  
17 like Clean Cities. In fact, a Clean Cities  
18 colleague commented at the Chicago P&L hearings that  
19 a number of fleets joined Clean Cities precisely  
20 because of the future mandates and our ability to  
21 help them comply.

22 DOE will also not create an urban bus  
23 fleet requirement. I'll just touch on this real  
24 quick before concluding. And begins its discussion  
25 by claiming that because buses are not in the EAct

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1 fleet definition, they cannot expand the rule to  
2 include them. Common sense dictates that  
3 legislators were asking DOE to expand the definition  
4 of fleets if a bus AFV fleet requirement made sense.  
5 DOE goes on to say that a bus requirement won't make  
6 sense because increased fares will reduce the number  
7 of transit users and petroleum use will increase  
8 again.

9 This argument, unfortunately, flies in  
10 the face of air quality strategies that reward  
11 increased transit expenditures for items such as bus  
12 shelters because they enhance the transit riding  
13 experience drawing more riders to the system. It is  
14 common knowledge that CNG buses are more pleasant to  
15 ride because they are less noisy, physically cleaner  
16 and do not spit black smoke in the riders' faces as  
17 they pull away from bus stops. This could actually  
18 contribute to a ridership increase.

19 Transit operators must manage their  
20 systems as efficiently as possible with minimal  
21 impact on fares in response to a number of  
22 imperatives; emissions, safety, handicapped access,  
23 etcetera. There is no reason that they cannot  
24 manage societal imperative with the importance of  
25 our nation's energy security.

1           So to summarize, I believe that the goal  
2           of EPAct is to move away from petroleum fuel use and  
3           increase replacement fuel use. This was clearly the  
4           intent of Congress in 1992 when it provided for the  
5           reevaluation of the arbitrary numeric goal of 30  
6           percent. It is not the absolute numerical goal that  
7           is important here, but the movement away from the  
8           status quo.

9           The lack of a P&L rule will result in a  
10          reverse and a decline in replacement fuel use.  
11          Therefore, promulgation of a P&L rule is necessary  
12          to achieve this goal of moving forward to energy  
13          independence. A P&L rule must be established to  
14          avoid any backsliding and to provide a firm  
15          foundation for voluntary programs such as clean  
16          cities.

17                 Thank you very much.

18           MR. O'HARA: Thank you, Nic.

19           MR. van VUUREN: Okay.

20           MR. O'HARA: Can I ask you a couple of  
21          questions?

22           MR. van VUUREN: Certainly.

23           MR. O'HARA: You sort of indicated that  
24          this fleet rule need to be -- are necessary because  
25          it does progress us towards the goal.

1 MR. van VUUREN: That's my opinion, yes.

2 MR. O'HARA: Do you have any  
3 documentation to sort of show what the progression  
4 has been?

5 MR. van VUUREN: Well, I can relate, you  
6 know, anecdotally in Hampton Roads. We have had  
7 fleets that acquired alternative fuel vehicles, did  
8 that with a specific intent of anticipating P&L.  
9 Very recently when I was with the city of Hampton  
10 and inquired as to whether or not they'd be  
11 interested in applying for funding for more natural  
12 gas vehicles. They're understanding that there is  
13 no more commitment to P&L resulted in them declining  
14 this offer and they plan on decommissioning their  
15 CNG facilities. Same thing with the city of  
16 Richmond.

17 It has a very, very detrimental effect  
18 on -- for a number of individuals in these  
19 governments to do the right thing, this is their  
20 only crutch, let's call it that, to be able to argue  
21 that we have to go in this direction despite --  
22 there is a cost always associated with this kind of  
23 program. That crutch is being taken away.

24 MR. O'HARA: Okay. You sort of conceded  
25 that these fleet mandates in EPAct as written is not



1 necessarily the best method?

2 MR. van VUUREN: Oh, I agree. It is  
3 very, very imperfect. But I think it's also very  
4 risky to rely on, you know, other initiatives that  
5 are being discussed in Congress today. We saw what  
6 happened with various initiatives like the Energy  
7 bill last year. You know, what I think would be  
8 more appropriate is if Congress came in and said  
9 this is our new EAct program and we're rescinding  
10 this one. But if the question at hand is whether or  
11 not P&L in this current environment should be  
12 implemented to move forward to our goals, then I  
13 think the question is yes, we should be implementing  
14 it.

15 MR. O'HARA: Isn't there better methods  
16 for getting alt fuel use out there other than the --

17 MR. van VUUREN: Oh, I'm sure. Yes. I  
18 think that is a fair statement. But we don't have  
19 those methods available to us today.

20 MR. O'HARA: Okay.

21 MR. van VUUREN: And, again, the signal  
22 that we send in terms of our commitment to  
23 alternative fuels use in municipalities, that the  
24 general attitude and perception is that this is  
25 really not that important. And I think that's a

1 very--

2 MR. O'HARA: Thank you.

3 MR. van VUUREN: Okay.

4 MS. LEWIS: May I ask you a question?

5 MR. van VUUREN: Yes, ma'am.

6 MS. LEWIS: How many vehicles are we  
7 talking about in the Hampton Roads area that would  
8 probably be in a rule if we had proposed one?

9 MR. van VUUREN: I don't have an exact  
10 figure for you, ma'am. We have ten municipalities.  
11 We have at MSA of about, I believe, 500,000 roughly.

12 The vehicles are in order of magnitude  
13 larger than the number of vehicles that we have  
14 under the federal and the state fleets, and this is  
15 I think -- that's a national average as well.

16 The ability to have the city of  
17 Chesapeake start taking an active role in the  
18 acquiring these vehicles allows us to work with the  
19 policymakers and say let's implement now a fuel use  
20 rule, okay, and then start building up  
21 infrastructure under, you know, whether it be  
22 ethanol or natural gas or whatever.

23 I think the whole point is, is it's not  
24 the absolute number of vehicles that we're talking  
25 about, it's that catalytic effect to the rest of the

1 community, which is what I think was the intent back  
2 when this was being passed.

3 Now, we're seeing movement, positive  
4 movement in that direction, especially with  
5 Executive Order 13149. But if we now take the step  
6 back at the municipal level, I think again we'll be  
7 back fighting, and I don't think anybody really  
8 wanted that.

9 MR. O'HARA: Well, that sort of bring to  
10 mind, doesn't that sort of imply that there isn't a  
11 business case and without substantial subsidies or  
12 anything else, that this doomed to fail anyway?

13 MR. van VUUREN: Well, and that was part  
14 of my testimony. As long as the market refuses to  
15 identify the true externalities of petroleum costs  
16 at the retail level, yes. Then we have a trouble  
17 with business phases. And we also do not -- it's  
18 very difficult because of the fleet manager, let's  
19 say, you know he does not get any credits at his  
20 bottom line, you know, for air quality improvements  
21 or energy security improvements. And that's very  
22 important to us as a nation and somewhere that's  
23 going to be tallied up as a benefit, but not at the  
24 fleet manager's level.

25 So I think the task that we have is to

1 convince policymakers such as city councils that,  
2 look, we need to do these programs. There is a  
3 positive effect. No, you're not going to see it,  
4 you know, under your expenses and your revenue  
5 sheet. But we need to have these kind of programs  
6 in place.

7 It's very difficult to do that at the  
8 local level talking about energy security without  
9 leadership from a program like EPAAct. It just --  
10 you know, local people are interested in air quality  
11 for sure, but energy security is not something  
12 that's, you know, driving them everyday. There's no  
13 constituency for energy security at the local level  
14 today.

15 MS. LEWIS: But do you not think that  
16 even if we do not have a P&L rule, that your  
17 constituents would indeed push for the alternative  
18 fuel vehicles? Because you say that -- I think you  
19 said something about 25 square miles or something  
20 for Norfolk, I believe you said.

21 MR. van VUUREN: Yes.

22 MS. LEWIS: So you must have some  
23 stations already set up for these people to get the  
24 fuels that they need for their vehicles. So do you  
25 not think that this will continue, and if so, would

1 it not go at a pace that would be beneficial to the  
2 entire metropolitan areas you're talking about?

3 MR. van VUUREN: I'll give you an  
4 example. Right now I'm working very, very hard in  
5 our area to research the policymakers who are the  
6 ones who will be able to tell the operations side in  
7 the municipalities to acquire alternative fuel  
8 vehicles. It is very, very difficult. Okay.  
9 Especially with the budgetary considerations, you  
10 know, with localities today. This is not being  
11 received very well.

12 And, like I said, in two cases we have  
13 municipalities that are actually decommissioning  
14 existing facilities because the drive to standardize  
15 on a traditional understood comfortable fuel is, you  
16 know, overwhelms the let's take this risk with  
17 something new that nobody has any commitment for at  
18 the federal government anyway, you know, I'm  
19 paraphrasing what they would be saying. Taking away  
20 this regulation, again, takes away any common  
21 approach that we could have to these municipalities  
22 in saying, "Look, this is important. We have a  
23 regulation. We're going to help you comply." And  
24 that will, I'll tell you what, accelerate our  
25 activities, you know, many fold.

1 MS. LEWIS: Well, you do know that if  
2 there would be such a rule, there would be no  
3 funding to give to the fleets. So it seems to me  
4 that if you want to have a better environment, then  
5 whatever you're doing now you will continue to go  
6 forward with that. Because I don't see any  
7 financial incentives coming for it. We may have  
8 some in the future, but I'm not sure about that.

9 MR. van VUUREN: Well, I'll give you  
10 another example there. We do have access to so me  
11 funding, it's not a lot. It's the state energy  
12 program special projects. And this past 4 or 5  
13 months I was trying to recruit municipalities to  
14 allow me to go in and search for that funding for  
15 the incremental cost of natural gas vehicles.

16 MS. LEWIS: But that is a separate  
17 program from what we're talking about?

18 MR. van VUUREN: Right.

19 MS. LEWIS: So you'll have access to the  
20 state energy program funding?

21 MR. van VUUREN: Right. But what I'm  
22 saying is there's no interest in that program today  
23 because there's no requirement for them to purchase  
24 these vehicles. Now even though we're covering the  
25 incremental cost, okay, the fact that there is a

1 risk with a perceived to be non-traditional  
2 technology, the fleet manager, you know, he is not  
3 being given any kind of direction that he needs to  
4 be going in this direction.

5 MS. LEWIS: Okay.

6 MR. van VUUREN: So he -- you know, he  
7 says well why should I bother with this. All right.  
8 Whereas, if we did have a P&L rule, we would have 10  
9 municipalities, you know, at least trying to go out  
10 and get funding, whether it be CMAQ funding  
11 [Congestion Mitigation and Air Quality Improvement  
12 Program], whether it be the Clean Cities SEP [State  
13 Energy Program] program. You know, that's part of  
14 our job at Clean Cities also is to try to find these  
15 other funding sources. But when we don't have the  
16 cities actively wanting us to find those sources,  
17 you know, there's really nothing that we can do.

18 MS. LEWIS: Thank you.

19 MR. van VUUREN: And this is a very  
20 important program that helps out.

21 MR. O'HARA: Thank you very much, Nic.

22 MR. van VUUREN: Okay. Thank you.

23 MR. O'HARA: Paul Smith?

24 MR. SMITH: My name is Paul Smith. I'm  
25 the Energy and Environmental Counsel for the

1 American Automotive Leasing Association (AALA).

2 We're pleased to be able to be here to  
3 participate in this rulemaking. We have done so  
4 through the years in the past, and I appreciate the  
5 opportunity to do so today.

6 We are in support of the determination  
7 that's been proposed by Department of Energy as a  
8 regulatory requirement for the owners and operators  
9 of certain fleets, public and private, to acquire  
10 alternative fuel vehicles not be necessary, and thus  
11 cannot and should not be promulgated, because such a  
12 program would result in no appreciable increase in  
13 the percentage of alternative fuels and replacement  
14 fuel used by motor vehicles in the United States.

15 Let me share with you first the record,  
16 and for the audience today, a little bit about who  
17 we are.

18 AALA is a trade association that  
19 represents the commercial fleet leasing and  
20 management industry. We comprise approximately 3.2  
21 million vehicles, generally light-duty, that are  
22 used for business throughout the United States.

23 In contrast to the consumer vehicle  
24 leasing industry that limits itself to offering  
25 financial alternatives, AALA members provide



1 comprehensive fleet management and consulting  
2 services to commercial, to nonprofit and to  
3 governmental organizations.

4 The range of services include really  
5 three things. First is assistance on the selection  
6 of the appropriate vehicle that both fits to the  
7 needs of the user, more specifically than any other  
8 alternative and that is cost effective to the work  
9 that's going to be performed.

10 Second, we assist them in operating  
11 those vehicles and maintaining them. Maintaining  
12 them safely and to operate them economically  
13 including design and implementing fueling programs,  
14 maintenance programs, registration, licensing and  
15 safety programs, as well as helping ensure that each  
16 vehicle is cycled out of the primary market into a  
17 secondary market at the most optimal time in its  
18 life cycle.

19 And then third, at the end of that life  
20 cycle we help ensure that the highest value is  
21 obtained for that vehicle through public sales,  
22 through auction or other disposals.

23 So those are the three phases:  
24 Selection of the correct vehicle, not too much, not  
25 too little for what is necessary; helping to ensure

1 that it's operated effectively and efficiently to do  
2 the work that is necessary and it's kept at the  
3 highest fuel level, fuel economy level at possible,  
4 and; at the end of the, first of all, deciding when  
5 that operational cycle ends and then a third phase  
6 which is the vehicle disposition occurs. All three  
7 of them are relevant for the purposes of the  
8 rulemaking that you have today.

9 Why? Because they generate sizeable  
10 energy and environmental benefits. Two of them I  
11 would like to highlight.

12 The first is that these vehicles help  
13 accelerate the introduction of newer, cleaner and  
14 more fuel efficient vehicles into the broader  
15 vehicle market. It's well established that older  
16 vehicles make a disproportionately large  
17 contribution to the emissions and degraded fuel  
18 economy performance.

19 These vehicles are -- problems are  
20 compounded by the fact that general population  
21 vehicles are turned over at a relatively longer  
22 cycle time. Newer vehicles, on the other hand, are  
23 cleaner, more fuel efficient because managed  
24 vehicles are turned over faster than general  
25 population vehicles. AALA members accelerate the

1 introduction of cleaner and better maintained  
2 vehicles into the secondary general population  
3 markets. The vehicles that AALA members turn over  
4 more would have been properly maintained through the  
5 time period, and unlike that which you'd find in  
6 general population vehicles.

7 And that brings me to my second point,  
8 which is that rigorous adherence to manufacturer  
9 recommended maintenance schedules plus other routine  
10 maintenance checkups leading to improved fuel  
11 economy.

12 The managed fleet vehicles are  
13 rigorously maintained in order to maintain optimal  
14 vehicle life and for fuel performance. That  
15 maintenance also enhances vehicle fuel economy, as I  
16 mentioned, and according to a 1995 study by EPA if  
17 the wheel alignment, just as one example -- the  
18 vehicle alignment is off by only half an inch, it  
19 can effect fuel economy and therefore fuel  
20 consumption by as much as ten percent.

21 These energy and environmental benefits  
22 are not a guaranteed outcome. They are a product of  
23 a very sensitive decision making process that occurs  
24 within fleets, whether they go to a managed fleet or  
25 not. The alternative is a driver reimbursement

1 program, which is just essentially reimbursing the  
2 users of vehicles for business purposes or for their  
3 job related purposes on a per mile basis. It has  
4 none of the controls that are inherent within an  
5 organized and managed fleet with regard to  
6 maintenance, fuel economy, life cycling and even  
7 selection of the proper vehicle. Frequently on a  
8 driver reimbursement program, the vehicle that the  
9 employee uses is one that is designed to fit his  
10 total needs, which may include such things as  
11 pulling a trailer on a weekend, taking a boat, doing  
12 secondary work. The vehicle that's selected for the  
13 purposes of the work is one that has trunk capacity,  
14 vehicle range, cost per mile designed to meet that  
15 work requirement.

16 A private fleet mandate under EPCAct  
17 would have been a good example of the type of a  
18 regulatory program that could have persuaded fleet  
19 operators to replace their managed fleets with  
20 driver reimbursement programs. This is because  
21 faced with the AFV, fleet contractors would have  
22 been forced to deal with a host of practical  
23 difficulties associated with acquiring the vehicles,  
24 which you have in the record ample evidence of that,  
25 such as available supplies of vehicles to fit the

1 needs.

2 The issues associated with fueling those  
3 vehicles. The refueling infrastructure simply does  
4 not exist.

5 When you look at the types of fleet  
6 operations that we have, it becomes evident that  
7 private commercial fleets are not particularly the  
8 apt test bed for new technologies. The cost per  
9 hour when you think about the sales and service  
10 fleets is a simple example. The cost per hour for  
11 those vehicles to be in down time because of the  
12 lack of maintenance or off route because of lack of  
13 fueling infrastructure is far more expensive than  
14 you'd find in the general population. We can obtain  
15 that data if you'd like to have that for the record.  
16 Various estimates have been made for that.

17 The business decision regarding how a  
18 company or other entity meets its transportation  
19 needs can be and frequently is very sensitive to  
20 issues such as regulatory burden and market driven  
21 costs. DOE, in fact, would not have to do very much  
22 to make driver reimbursement programs operational  
23 and cost competitive with the privately maintained  
24 fleet programs. Such an external influence is  
25 likely to result in a significant portion of those

1 2.3 million vehicles that currently move through a  
2 controlled environment to an uncontrolled driver  
3 reimbursement situation. This has a harmful impact  
4 on the public for the reasons we just stated and  
5 also for the efficiency of the private sector.

6 For these reasons, AALA has participated  
7 throughout the life cycle of the P&L rule, and we  
8 will continue to do so.

9 I'd like to just focus two specific  
10 comments, if I might.

11 First, that the private fleet rulemaking  
12 is not necessary under the fuel replacement goal or  
13 under any fuel replacement goal. In the comments  
14 that we submitted in support in December 26, 2000  
15 workshop in Washington, D.C. we mentioned several of  
16 the various steps towards limits on a discretionary  
17 program for private fleets under Title 5. As I  
18 understand it on EAct that record will be part of  
19 this record as you go forward. And if not, we will  
20 be happy to resubmit those comments.

21 But we would like to just indicate that  
22 the only viable option that was identified in that  
23 workshop is the option one, that is no regulatory  
24 requirement for local government and private fleets.  
25 That option has been part of the record, as part of

1 the preliminary thinking that the Department has had  
2 for almost 3 years now. And fleet staff who acted  
3 in anticipation of that, probably were not fully  
4 aware that that was one of the four options on the  
5 record, but it was in the *Federal Register* and  
6 available first.

7 We continue to believe that the only  
8 conclusion that can be drawn from the information  
9 that the record has provided so far is that a  
10 private fleet program is not necessary under EPCa.  
11 The data indicates that replacement fuels account  
12 for less than 3 percent of the total motor vehicle  
13 consumption in 2001, which is only slightly up from  
14 the 2 percent in 1992. That information indicates  
15 that EPCa's 30 percent goal for the year 2010 is  
16 essentially unreachable at this late date. In your  
17 record you noted that extraordinary measures would  
18 be required in order to achieve that 30 percent 2010  
19 goal.

20 I'd like to just limit our comments in  
21 this aspect to two factors in your determination  
22 that a private fleet rule is not necessary.

23 We understand that DOE's necessity  
24 determination is based in large measure upon various  
25 statutory limits, including, for example, the

1 definition of what a covered vehicle is and what the  
2 appropriate fuel is. These limits convince the  
3 Department that even if a mandate were implemented,  
4 it would not appreciably increase the use of  
5 replacement fuel. We agree that the statute limits  
6 the scope of any private fleet program which in turn  
7 limits the effect that the program could have on  
8 replacement fuels, and therefore that effect would  
9 be negligible.

10 DOE appropriately goes further, however,  
11 and clarifies that it would also be unable to make  
12 the two specific subordinate findings. Under 507(e)  
13 [sic] those subordinate findings are that the 30  
14 percent 2010 goals are not expected to actually be  
15 achieved without a fleet program and that it is  
16 practically and actually achievable with such a  
17 program.

18 We encourage DOE to look at those  
19 necessity findings and enhance upon them as you move  
20 forward. We particularly are persuaded by the fact  
21 that the 30 goals is aspirational and adjustment of  
22 those goals would make little sense to revise them  
23 downward. And looking at the broader picture of our  
24 energy reliance and dependence, much of the same  
25 factors that underpinned the original EAct in very

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1 much the same geo-political situation nearly 11 to  
2 12 years ago.

3 We recommend that DOE go further,  
4 however, and explain in detail why the 507(e) [sic]  
5 necessity findings could not be met even if DOE  
6 decided to revise the goals downwards. You could do  
7 so my noting the private fleet rule might, at best,  
8 contribute .2 to .8 percent towards a modified goal  
9 and that (2) that the goal the nation's currently  
10 operating at a 2.8 replacement fuel usage, and  
11 perhaps even less than that. Accordingly, assuming  
12 even best conditions, the 2010 goal might have to be  
13 revised downward to more than just 3 percent. That  
14 goal would be illogical as well as arbitrary and  
15 capricious because Congress set the goal for the  
16 year 2000 at 10 percent, which was also not met.  
17 Congress surely would not have wanted DOE to revise  
18 the 2010 goal downward to a level less than that  
19 provided for the year 2000 for their goal for the  
20 year 2010.

21 Even if it would be argued that it would  
22 be lawful for DOE to revise the 2010 goal downward  
23 in a manner that conflicted with the statutory  
24 scheme, the minuscule contribution towards such a  
25 revised goal that the regulation to the fleets might

1 provide could not be guaranteed, even in light of  
2 DOE's separate findings that the private fleet  
3 contribution would be highly uncertain under all  
4 scenarios.

5 In other words, a necessity finding  
6 could not be met even if the 2000 goal would be  
7 lawfully revised downward to 3 percent. The record  
8 reveals that the regulation of private fleets simply  
9 will not help the nation achieve any fuel  
10 replacement goal. No other conclusion is possible  
11 is based upon the record.

12 The second point I'd like to make has to  
13 do with a point that was raised by the previous  
14 speaker, and that is the relative impact of  
15 incentives versus mandates. We believe that  
16 incentives are better public policy.

17 First and foremost, the past decade has  
18 demonstrated that. Fleets such as ours have not  
19 been effective in achieving goal -- fleet mandates  
20 have not been effective in achieving in the goal.

21 The Administration's 2001 energy policy  
22 report similarly noted that the fleet scheme is not  
23 sound policy, and let me quote from that energy  
24 policy report. "The success of the federal  
25 alternative fuel programs has been limited. The

1 program focused on mandating that certain fleet  
2 operators purchase alternative fuel vehicles. The  
3 hope was that these vehicle purchase mandates would  
4 lead to expanded use of alternative fuels. That  
5 expectation has not been realized."

6 So in conclusion, let me just state that  
7 you'd be in good company as you make this decision.  
8 Alan Lloyd from the California Energy Resources  
9 Board has stated that mandates such as the ZEV  
10 Mandate alone cannot overcome the nature and physics  
11 or some other technical challenges that are  
12 bedeviling both the industry and us.

13 To the extent that policymakers desire  
14 to modify the nation's goal of transportation fuels,  
15 whatever policy is selected should be applied  
16 broadly and upstream. Narrow downstream are faulted  
17 policies, as recognized by the previous speaker.

18 We thank you and look forward to the  
19 rest of the day.

20 MR. O'HARA: Thank you, Paul. I have a  
21 couple of questions.

22 I certainly understand that you agree  
23 with our position. The question that leads me to if  
24 we're not going to do a private local, we're not  
25 gaining much in the way of alternative fuels, how

1 would you recommend that we proceed?

2 MR. SMITH: I think there's elements in  
3 the Clean City program that I find ineffective, but  
4 I think that there's other elements in that program  
5 that I think are effective. And I think the  
6 opportunity -- I look at the fleets that have been  
7 able to operate on a sustained basis on alternative  
8 fuel, and have done so by a very local effort where  
9 the 3 parties have come in, the fundamental flaw in  
10 EPCa mandate is that it looked at one leg of a  
11 three legged stool. A three legged stool. Those  
12 three legs the vehicles, the fuels and the users.

13 There is no requirement on the fuel  
14 availability. There's no requirement on the fuel or  
15 the vehicle manufacturers. And with the deletion of  
16 the ZEV [Zero Emission Vehicle] Mandate, it has even  
17 moved away from that position.

18 What you need is those three legs to  
19 appear in a voluntary context. Where it's worked  
20 has been having representatives of each of those  
21 three. And I know some upcoming announcements that  
22 will be made, and we're not at liberty to say them  
23 now, but there will be some upcoming announcements  
24 that are very similar, voluntary actions moving  
25 forward where those 3 parties -- representatives of

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1 those 3 segments have come together and have been  
2 able to make it work. And it's required some  
3 contribution from -- but if you have mandated and  
4 the other two voluntary, I think the result is going  
5 to be that the mandated one is going to be the one  
6 carrying the burden. That is just simple logic.

7 I think that the government, in addition  
8 to the encouragement of those kinds of programs, in  
9 the absence of an overhanging axe -- we do not have  
10 a test bed to understand what a Clean Cities program  
11 could be in the absence of an anticipated mandate.  
12 And I think the chilling effect of the existence of  
13 that mandate is as strong or stronger influence as  
14 the people who may have come forward saying they'll  
15 gamble, roll the dice and think that there will be a  
16 mandate enacted and in anticipation of it. I think  
17 there's been a lot of people who are very uncertain  
18 about whether they're going to enter into a  
19 voluntary marriage or it's going to be a shotgun  
20 marriage.

21 One simple example of the types of  
22 incentives that haven't seriously been looked at are  
23 the ones that are zero dollar incentives. And it  
24 does involve a public policy determination, and  
25 quite frankly it's beyond the scope of the

1 Department of Energy probably to be able to make  
2 that kind of determination. But in the 12 years that  
3 has existed since EPCRA program started, there have  
4 been -- the primary alternative fuel has been  
5 compressed natural gas. The national tax policy  
6 with regard to that has been unclear. There was  
7 great anticipation at the time of EPCRA that there  
8 would be zero taxation for that fuel as  
9 transportation needs. Within a year and a half  
10 after that, they imposed a partial tax. There's  
11 been repeated calls to be able to say make it clear.  
12 Because the existence of a nontax can be quantified.  
13 All you have to do is look at the .38 cents a gallon  
14 that's being paid nationwide on petroleum products,  
15 and every fleet decision that is very sensitive to  
16 the life cycle fuel cost could factor in the value  
17 of knowing that they have essentially been given a  
18 tax haven by the amount of fuel tax they haven't  
19 been paid. There has been no public policy  
20 pronouncement that that alternative fuel would  
21 remain untaxed.

22 What they have said is here's the tax,  
23 we will not commit for any period of time that it  
24 won't be taxed in the future. So you end up with  
25 this very strange situation. The federal Treasury --

1 it has not cost the federal Treasury anything to  
2 have such a situation and it hasn't -- but yet that  
3 tax benefit, the absence of that tax has not been  
4 able to be factored into the purchase decision.  
5 Because our purchase decisions are really for the  
6 life cycle, even though we keep the vehicles in for  
7 36 months. Because the residual value of the backend  
8 of that life cycle is factored into the value of  
9 what that vehicle is including its tax situation.

10 So, if you're looking at an 11 year life  
11 cycle with a tax haven of possibly ten years, based  
12 upon doing what they haven't already done, and the  
13 last ten years has proven that, there's been in no  
14 increase in the cost of -- in the tax for natural  
15 gas, but there has been no ability to be able to  
16 factor that in. So, one example.

17 Zero budget benefit, zero debit budget  
18 cost, huge impact on the private sector.

19 MR. O'HARA: Okay, Paul. Just like you  
20 to clarify. I'm not sure I understood your point  
21 about the mandate versus voluntary programs. Are you  
22 saying that if there was no mandates, that the  
23 voluntary would probably do as much as what the  
24 mandate would do in the absence of any mandates?

25 MR. SMITH: It's an unknown. It's an

1 unknown. I wouldn't try to quantify that, but I  
2 think human nature would tell you that if you have a  
3 voluntary program in which the first step is you  
4 then commit to something that there is an option  
5 hanging out there which says -- an unresolved  
6 option, which is we may make you do what you've just  
7 voluntarily done.

8 I mean, my son never mowed the lawn  
9 because he never proved to me he could do it well.  
10 And if he'd proven to me he could do it well, he  
11 might have been in the situation of mowing that lawn  
12 every week. I think it's human nature. And I think  
13 we're dealing with things far less esoteric than  
14 economic formula and lot of sophisticated issues.

15 The role of incentives, I think one  
16 question to ask yourself is start to look at the  
17 major fleets in this country that have chosen [to  
18 introduce AFVs] and ask which mandates they've  
19 operated under. And I think you may be surprised to  
20 find the answer then.

21 I can't give you that answer, but I have  
22 a suspicion you're going to have a significant  
23 number of fleets that have -- and there's still not  
24 a significant number of fleets that are doing it,  
25 but those that are doing it, a significant portion



1 of those vehicles have done so on the basis of  
2 voluntary action without an overhanging mandate.

3 MR. O'HARA: Yes, but don't they also  
4 limit that to if they do try something, usually they  
5 do it to a small effort. So they figure out whether  
6 it's proving their hypothesis that there's a  
7 business case for doing this type of thing. We're  
8 going to see some sort of return on our investment  
9 if we try this.

10 MR. SMITH: Yes.

11 MR. O'HARA: And lacking that, and they  
12 end up just trying it for a while and then  
13 discontinuing it or only having a small level of  
14 opportunity. Would you not agree?

15 MR. SMITH: Absolutely. Absolutely.  
16 And it's against the backdrop of an ever evolving  
17 technology. And if you look at what the technology  
18 options are, you sat down as a fleet operation and  
19 you asked anybody what the technology issues you  
20 should be thinking about for a vehicle that will be  
21 on the road maybe 10 years, and in some cases up to  
22 20 years, it's going to be a different technological  
23 configuration than it was ten years ago, 3 years  
24 ago. And so you have to factor all of those in.

25 I mean, yes, it's a test bed for the

1 economics. It's a test bed for the technology. And  
2 it has very uncertain life.

3 MR. O'HARA: Okay. One more question for  
4 you. Earlier in your statement you said that these  
5 fleets were not ideal for new technology  
6 introduction.

7 MR. SMITH: Correct.

8 MR. O'HARA: Where should the new  
9 technology be introduced at?

10 MR. SMITH: We think that -- I mean, I  
11 think the new technology has to roll out under its  
12 own volition. And that is not attempting to avoid  
13 that question. But if you look at the introductions  
14 of any of the electronic technologies, moving away  
15 from vehicle technologies, you know they roll out,  
16 in some cases, through people who are enamored --  
17 you know, they're technologists who are enamored by  
18 the technology. Others do it because there's been a  
19 particular economic incentive to do so. Some people  
20 do so because it's the right thing to do.

21 The reason why business fleets are  
22 particularly less apt to be first adapters of new  
23 technology is that the cost per mile for them is  
24 significantly higher. If you factor in the fact  
25 that the sales and services fleets will have not

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1 just the one driver and he has compensation  
2 associated with the use of that vehicle, he'll have  
3 a back office that will be dependent upon processing  
4 the orders he gets. And then you'll have a  
5 manufacturing component.

6 So when a company has ten percent of its  
7 employees out on the road, with its total employment  
8 out on the road selling, the other 90 percent of  
9 that business is dependent upon what orders come in  
10 from that person. If that vehicle is offsite with  
11 down time, there's a lot of dollars resting per  
12 minute on that vehicle. And therefore, you won't  
13 find whether it is additional cupholders or electric  
14 windows or engine technology, or new transmissions;  
15 those are not the sites of first adaptor of any kind  
16 you'll find rolling out into a commercial fleet.

17 MR. O'HARA: Well, thank you, Paul.

18 Vivian, do you have any questions for  
19 him.

20 MS. LEWIS: No.

21 MR. O'HARA: Thank you very much, Paul.

22 Next we have on the agenda is Daniel  
23 Williams.

24 MR. BABCOCK: Dana, just so you know,  
25 the ACEEE went with adding their comments later.

1 MR. O'HARA: Okay. Then I believe we'll  
2 go to David Robertson.

3 MR. ROBERTSON: Good morning. Thank you.

4 I am David Robertson. I'm the immediate  
5 past President of National Association of Fleet  
6 Administrators, but I'm also a fleet operator for  
7 the city of Houston Fire Department, Houston, Texas.  
8 However, let me explain that I am not speaking on  
9 behalf of the city of Houston, but only on behalf of  
10 the members of our Association.

11 As you know, NAFA is a professional  
12 association that serves and represents managers of  
13 vehicle fleets for thousands of private businesses,  
14 utilities, government agencies including the federal  
15 level, national, state and local. Our members  
16 manage hundreds of thousands of vehicles ranging  
17 from cars and SUV to ambulances, large fire trucks,  
18 which is mine, snowplows, delivery trucks and  
19 specialty vehicles.

20 Today I'm proud to congratulate the  
21 Department of Energy for so bravely telling the  
22 truth in this proposed rule change. The clear  
23 experiences of fleet managers across the country  
24 support the DOE determinations.

25 NAFA strongly agrees with the Department

1 of Energy that implementation of a private and local  
2 government fleet program will not appreciably  
3 contribute to the achievement of EPAct's replacement  
4 fuel goals. As NAFA has testified all along, the  
5 number of fleets that would be covered by a mandate  
6 and the number of acquisitions that would occur are  
7 too small to significantly increase the use of  
8 replacement fuels Congress intended in the early  
9 adoption of AFVs by the federal government, fuel  
10 providers and state governments. But they might  
11 stimulate broad development of infrastructure,  
12 foster new technologies and create a business  
13 environment where replacement fuels could expand to  
14 the public at large. But so much has changed since  
15 EPAct was passed, the proponents of alternative  
16 fuels could not afford the infrastructure they  
17 promised, in part because of changes in  
18 deregulation.

19 Availability of most fuel choices have  
20 been very limited and fuel is still too expensive.  
21 Nearly all the original obstacles to current fuel  
22 replacement fuels remain today, despite sincere  
23 efforts by groups like the Clean Cities  
24 organizations and many fleets and fleet managers.

25 The original dreams of cost-effective

1 replacement fuels and infrastructure in vehicles  
2 simply didn't become reality in the harsh daylight  
3 of some ten years now. NAFA has documented the  
4 experiences of fleet managers right from the start.  
5 DOE's latest research as clearly described in this  
6 proposed rule documents the true reality, and I  
7 quote, "As a result of the lack of alternative fuel  
8 infrastructure, lack of suitable AFV models, lack of  
9 reasonable vehicle prices and high alternative fuel  
10 costs relative to conventional fuels, market forces  
11 will prevent appreciable increases in replacement  
12 fuel use and covered fleet" even if DOE were to  
13 impose further mandates.

14 The original goal of EPAAct was lofty but  
15 not practical. Many promises were fulfilled, many  
16 hopes were not realized, and nearly all the real  
17 world obstacles to widespread use of the original  
18 replacement fuels are as strong today as they were  
19 in 1992.

20 On behalf of the fleet managers and  
21 NAFA, I sincerely thank the Department of Energy for  
22 recognizing the realities of this, as disappointing  
23 as they must be, and for so clearly documenting the  
24 sound reasons why indeed mandates should not be  
25 imposed.

1 Thank you.

2 MR. O'HARA: Thank you, David. Can I  
3 ask you a certain questions?

4 MR. ROBERTSON: Sure.

5 MR. O'HARA: They're sort along the same  
6 line as I'm asking the previous speaker.

7 I see that you support our decision. The  
8 question is, is what should we be doing in lieu in  
9 order to achieve the replacement goals?

10 MR. ROBERTSON: Well, I think much of  
11 the initiative has already been put in place -- a  
12 lack of initiative, really -- I just left a  
13 conference in Philadelphia where I came down for  
14 this testimony today, and I'll be leaving and going  
15 back for that. But automobile manufacturers are  
16 there. They're producing new models with hybrid  
17 fuels and so forth. Hydrogen fuel cells are on the  
18 horizon.

19 So the push that's being given toward  
20 the manufacturers is working, I think, toward  
21 developing this in terms with CAFE standards, which  
22 have recently been changed. I think there's a  
23 momentum already there.

24 Certainly in my side, in my practical  
25 world as a fleet operator, much work is being done

1 with the diesel engine manufacturers to limit NOx  
2 and so forth for the environmental side, but also  
3 will relieve the energy dependence question that we  
4 have now.

5 So I think the initiative is largely  
6 overcome. And I believe it's moving more rapidly  
7 than many people think.

8 MR. O'HARA: Okay. If so, I'm specially  
9 interested in the hydrogen. Aren't we going to have  
10 similar problems with fuel cell vehicles and the  
11 infrastructure?

12 MR. ROBERTSON: Certainly you may  
13 initially, but I think the PR is going better for  
14 this time, anyway. It's not to say that hydrogen is  
15 really the case, either. You know, we're still sort  
16 of searching for transitional fuels here to get us  
17 to where we ultimately want to go. Most fleet  
18 managers would prefer you say "All right, this is  
19 the fuel of choice, everybody get on board 100  
20 percent of the time and let's just go with it, and  
21 hope that that all works." But that's not practical  
22 either then.

23 So, yes, there's going to be  
24 infrastructure problems. There's going to be cost  
25 problems. Those are going to have to be overcome.



1 But I think the ground swell that the faster we can  
2 determine how we can determine how we can get this  
3 in the general population, then obviously then that  
4 becomes less of a burden for fleets, but also it's  
5 going to get you where you really want to go.

6 MR. O'HARA: I understand that. But--

7 MR. ROBERTSON: Do I have a magic pill  
8 that's going to get there?

9 MR. O'HARA: Well, I mean --

10 MR. ROBERTSON: No, I wish I did.

11 MR. O'HARA: Well, some of the question  
12 is, is I mean you're talking about new technology  
13 which is more expensive.

14 MR. ROBERTSON: Yes.

15 MR. O'HARA: You have, you know,  
16 infrastructure that you have to go with any of these  
17 alternative fuels. I mean, we're going to have the  
18 same problems in the future that we currently have  
19 now, and if we really want to move off the petroleum  
20 standard, which I think everybody in this room has  
21 sort of agreed that we should, we're just how to get  
22 there is sort of the debate.

23 MR. ROBERTSON: Well, certainly I've  
24 seen incentives now on certainly hybrid vehicles  
25 that I didn't think that we'd see for some time yet.

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1 But we're seeing incentives being offered by the  
2 manufacturers to get those into the mainstream  
3 population. Certainly the city of Houston's  
4 purchased over 200 of the Toyotas and we're moving  
5 along those directions with better fuel consumption  
6 and so forth. So I think that -- and that was in the  
7 absence of any mandate. I mean, we just decided to  
8 do that. Anyway, it's good public policy.

9 And our fleet members will want to do  
10 the same sort of thing.

11 MR. O'HARA: Okay.

12 MR. ROBERTSON: Satisfied? Not  
13 satisfied?

14 MR. O'HARA: Thank you, Dave.

15 MR. ROBERTSON: Thank you.

16 MR. O'HARA: David LeFever.

17 MR. LEFEVER: I thank you. I'm David  
18 Lefever. NAFA National Executive Director. And I  
19 have joined President Robertson in expressing the  
20 unqualified support for the proposed determination  
21 and rule.

22 I've had the opportunity to work  
23 firsthand with DOE people and to observe all that  
24 DOE's done in recent years, DOE officials and  
25 Department of Energy staff, and how hard you've

1       tried to make alternative fuels work. If sheer  
2       commitment and effort by DOE officials and staff  
3       would have made the difference, alternative fuels  
4       would have managed somehow to overcome the  
5       obstacles.

6               There is no doubt that DOE has provided  
7       really valuable services through reference  
8       materials, case studies, electronic workbooks, the  
9       alternative fuels hotline, NREL, research and  
10      websites, the Clean Cities program, participation at  
11      so many programs and conventions and meetings all  
12      across the country. NAFA still to this moment refers  
13      members to excellent DOE resources to try to  
14      evaluate the real world experience with alternative  
15      fuels and to try to find ways to make it work. These  
16      customer focus services are probably the good part  
17      of what's happened since EPAct passed.

18             When this current DOE determination and  
19      rule become final, I hope it will mark the end of  
20      mandates, but also mark a new day for alternate  
21      fuels. All of us in NAFA sincerely hope that DOE's  
22      decision to not implement further mandates will  
23      foster greater use of fuel alternatives.

24             New technologies that were not  
25      considered in the late 1980s offered great promise,

1 not just for fleets, but what we feel is of greater  
2 importance for the motoring public at large. Nobody  
3 likes to be threatened. And I know that NAFA and  
4 NAFA members devoted an awful lot of energy trying  
5 to figure out how to avoid onerous mandates. When  
6 the threats of the mandates are removed, fleets can  
7 devote that energy to positive participation in new  
8 technology and new fuels.

9 The next wave of alternative fuels is  
10 already gaining strong voluntary interests from  
11 fleets and from the public.

12 I'm enthusiastic about the possibilities  
13 of new fuels, new technologies, new ways to  
14 encourage people to increase energy independence and  
15 things that will really work, not just for fleets  
16 but also for the public at large.

17 I would like DOE to count on the help  
18 and support of NAFA and our NAFA members as we work  
19 together to continue to try to promote widespread  
20 voluntary use of alternative fuels.

21 Thank you.

22 MR. O'HARA: Thank you, David.

23 I'll ask you the same question. I mean,  
24 do you have any ideas in lieu of doing a private  
25 and local government fleet mandate, what should we

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1 be doing to get replacement fuel use or alternative  
2 fuel use in this country?

3 MR. LEFEVER: Absolutely. I think  
4 merely removing the threat of the mandates will in  
5 itself be helpful. One of the things that has  
6 damaged the reputation of alternate fuels so greatly  
7 has been the fact that the law was passed to try to  
8 force fleets to use it. And before the law was  
9 passed, fleets listed some obstacles, some real  
10 world obstacles that sincerely and honestly existed.  
11 It's pathetic that 12 years later DOE is  
12 acknowledging those exact same obstacles haven't  
13 changed over the 12 years. All that the mandates  
14 accomplished over 12 years was to tell fleets this  
15 stuff doesn't work, it's too expensive, the fuel's  
16 not available so we're going to force you to buy it.  
17 And fleets have spent 12 years documenting how it  
18 doesn't work and how much they didn't want to be  
19 forced to buy it. And it set a very harmful  
20 negative tone.

21 In my job I try to -- I meet with fleet  
22 managers. And I've tried to have alternate fuels  
23 included in our convention every year. The anger is  
24 so great. The frustration is so great caused by the  
25 mandates, that our committee has voted for ten years

1 to not discuss alternative fuels at our fleets  
2 convention. They're that angry by the fact by  
3 somebody's trying to force them to do something that  
4 still doesn't work, and that every obstacle that we  
5 listed in the initial law that Congress included in  
6 the initial law still exists.

7 I'm very happy that this year for the  
8 first time, right now in Philadelphia, actually this  
9 morning, folks from NREL for the first time have  
10 been on our agenda and they are at least able to go  
11 on. Members voluntarily agreed they wanted to know  
12 more about what are the choices, what are the  
13 technologies, what's the information that NREL has  
14 available. It's the first time that I personally  
15 want more talk of other fuels at our convention.  
16 But the mandate issue was so negative and created  
17 such a hostile environment that they really didn't  
18 even want to talk about it.

19 And as some DOE folks will know, we've  
20 worked very cooperatively with DOE in trying to  
21 document fleets that it's worked successfully in  
22 this market. We've tried to spread the news of  
23 every success.

24 And I'm really very hopeful that even  
25 some of the existing fuels will work in mixed

1 markets. I think that's one of the areas that we  
2 can work on together.

3 There is no doubt that in some school  
4 bus areas, that in some airport shuttle services,  
5 things like that, that alternate fuels have worked  
6 very well. They've ironically worked very well in  
7 some police departments in unique circumstances.  
8 Even though they were exempt from the mandate all  
9 the way along, one of the ironies is that so many  
10 police departments switched to CNG or to propane  
11 when they weren't covered by the mandate at all.

12 So I think we could devote some energy  
13 to encouraging more in this niche markets.

14 But I think the other issue that you  
15 very accurately raise is at this point in history it  
16 will be very difficult to encourage fleets to make a  
17 commitment to some of the fuel alternatives that we  
18 discussed ten and 12 years ago. Today natural gas  
19 fueling infrastructure is very limited. I know it  
20 well. I go through the DOE website. I know how many  
21 sites there are. I know how many you can go to as a  
22 regular person and buy, and what the hours of  
23 operation, and what credit cards they take. It's  
24 still extremely limited.

25 And because of changes in deregulation,

1 some of the utilities that were most anxious to  
2 build public infrastructure no longer have -- now  
3 they actually have an economic disincentive for  
4 trying to do that.

5 I know we had hopes that methanol was  
6 going to be available in many parts of the country.  
7 I think it's probably available in fewer places  
8 today than it was 10 or 12 years ago.

9 So I'm not too sure that there are many  
10 tricks we can use to dramatically increase the  
11 alternative use, the current or the old list of  
12 alternative fuels. I say that because you correctly  
13 identified the obstacles.

14 Congress has not chosen to fund money  
15 that would make it economically feasible. Congress  
16 has not chosen to provide the incentives to build  
17 the infrastructure or to match the cost of the  
18 fleets.

19 In the absence of that, I don't know of  
20 any miracle that will come along. My suspicion is  
21 that we have high hopes for these hybrid vehicles  
22 that pretty much are being sold as quickly as they  
23 can be produced. I think that may offer a promise.

24 We have high hopes that some of the  
25 other technologies, fuel cells whether they run on



1 gasoline or diesel initially to get started could be  
2 a promise. But we agree with you that the challenge  
3 is the -- if the cost is prohibitive, then it won't  
4 work. But certainly I think in the short term, that  
5 focus on niche markets where it does work, that  
6 will probably be the best thing we could hope for  
7 short term.

8 MR. O'HARA: Thank you, David. Thank  
9 you.

10 What I'd like to do is probably take a  
11 short break, about 10 minutes, and then we can start  
12 with the rebuttals if anybody wants to step back up  
13 and rebut other people's testimony. Anybody who  
14 wants to rebut?

15 MR. van VUUREN: You'll be the only one  
16 rebutting.

17 MR. O'HARA: Do you want to, Nic?

18 MR. van VUUREN: I just maybe had two  
19 comments.

20 MR. O'HARA: All right. Well, why don't  
21 we take a ten minute break and then come back.

22 MR. van VUUREN: I just want to go on  
23 right now.

24 MR. O'HARA: You want to do it now?

25 MR. van VUUREN: Do it now.

1 MS. LEWIS: Let him go.

2 MR. O'HARA: All right, Nic.

3 MR. van VUUREN: We'll do it now, get it  
4 over with. I'm feeling kind of lonely today.

5 You had asked a question to, I forget  
6 which previous speaker, but it was about whether or  
7 not new technologies, where they should be  
8 implemented. And the reply was that the  
9 technologies, new technologies should really come  
10 out on their own volition.

11 What we have here is a situation what  
12 we're working with do not provide a direct customer  
13 benefit, like a cupholder or a transmission. What  
14 we find is probably the largest introduction of new  
15 technologies since 1979 have been the introduction  
16 of electronic fuel injection systems and associated  
17 exhaust after treatment systems. Those systems would  
18 not have made the market without a mandate. The  
19 Clean Air Act and also the Low Emissions Vehicle  
20 programs in California where decisive for those  
21 technologies to make any kind of impact in the  
22 general population.

23 Bosch had a system for electronic fuel  
24 injection. It was available in the 1960s, even  
25 before that. That did not make any significant

1 impact until we started -- we needed the use of  
2 three way catalysts.

3 There were some comments on hydrogen as  
4 kind of that gleaming oasis on the horizon. Part of  
5 my original testimony, but I knew I was going to run  
6 over time, was we fully embrace hydrogen. We think  
7 it's wonderful. The Clean Cities program in Hampton  
8 Roads, we have an education program trying to  
9 facilitate the implementation of hydrogen in our  
10 area with demonstration programs.

11 I think, however, we should all  
12 recognize that hydrogen, we will not be at the point  
13 -- natural gas was, let's say 10 years ago, with  
14 hydrogen for another 10 or 15 years. You know, and  
15 unless we learn how to implement today's  
16 transitional fuels effectively, we're not going to  
17 effectively introduce and implement hydrogen.

18 So it's very, very important that  
19 whatever programs we have for the near term  
20 alternatives, we need to be using those as learning  
21 lessons for the future.

22 And then just one last comment. Yes,  
23 mandates and incentives I think it's very clear,  
24 they do form a 3 legged stool. I don't think -- I  
25 think it's very, very difficult to put incentives on

1 all three legs unless we have, you know, enormous,  
2 enormous commitment. And I don't think it's right  
3 to put mandates on all three legs either. That's  
4 just inappropriate. But clever mixes of the two are  
5 really, really -- can be very, very effective.

6 Okay. That was my advice.

7 MR. O'HARA: Thank you very much, Nic.

8 MR. van VUUREN: I didn't thank you for  
9 the opportunity to come and speak today.

10 MR. O'HARA: Thank you.

11 I'd like to thank all the speakers. I  
12 appreciate you taking the time out and coming in and  
13 giving us the benefit of your wisdom.

14 Certainly all the comments are greatly  
15 appreciated. I personally appreciate everybody  
16 coming in and taking the time to let us know what  
17 you think about the notice of proposed rule.

18 And with that, I guess I will close the  
19 hearing.

20 I thank you very much.

21 (Whereupon, at 10:58 a.m. the above-  
22 entitled matter was concluded.)  
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